

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

GEORGIOS N.	)	8:14CV35
DIAMANTOPOULOS,	)	
	)	
Plaintiff,	)	
	)	<b>MEMORANDUM</b>
v.	)	<b>AND ORDER</b>
	)	
NEBRASKA GOVENOR,	)	
NEBRASKA ATTORNEY	)	
GENERAL, KATIE BENSON,	)	
County Attorney, Douglas County	)	
Deputy Attorney, and PORT OF	)	
IMMIGRATION NEW YORK,	)	
	)	
Defendants.	)	

This matter is before the court on Plaintiff's Notice of Appeal, filed on April 28, 2014. (Filing No. [14](#).) Plaintiff did not submit a Motion for Leave to Proceed in Forma Pauperis ("IFP") on Appeal, and did not pay the \$455.00 appellate filing fee. (See Docket Sheet.) The court has carefully reviewed the record and finds that Plaintiff may not proceed IFP on appeal.

Under the provisions of [28 U.S.C. § 1915\(g\)](#), a prisoner may not proceed IFP in a civil action, or appeal a judgment in a civil action, if the prisoner has, on three or more occasions, while incarcerated, brought an action or appeal in federal court that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted. [28 U.S.C. §1915\(g\)](#). An exception is made for prisoners who are under imminent danger of serious physical injury. *Id.*

The following three cases or appeals brought by Plaintiff were dismissed because they failed to state a claim upon which relief may be granted or because they

were frivolous: *Rehbein v. Nelson, et al.*,<sup>1</sup> No. 4:95CV3157 (D. Neb.), dismissed as frivolous on August 18, 1995; *Diamantopoulos v. Dir. of Corrs., et al.*, No. 4:05CV3097 (D. Neb.), dismissed for failure to state a claim on May 13, 2005; *Diamantopoulos v. State of Nebraska, et al.*, No. 8:07CV31 (D. Neb.), dismissed for failure to state a claim on October 14, 2008.

Here, Plaintiff has not shown that he faces any danger or physical injury. Thus, he is not permitted to proceed IFP in this court and he is not entitled to proceed IFP on appeal.

IT IS THEREFORE ORDERED that:

1. Plaintiff is not entitled to proceed IFP on appeal and the appeal is dismissed.

2. The clerk's office is directed to forward a copy of this Memorandum and Order to the parties and to the Eighth Circuit Court of Appeals.

DATED this 14<sup>th</sup> day of May, 2014.

BY THE COURT:

*Richard G. Kopf*

Senior United States District Judge

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<sup>1</sup>Diamantopoulos is also known as Cary Nelson Rehbein. *See* Nebraska Department of Correctional Services, Inmate Locator, *at* <http://dcs-inmatesearch.ne.gov/Corrections/InmateDisplayServlet?DcsId=35084> (last visited March 3, 2014) (*See also* Filing No. 1 at CM/ECF p. 7 (inmate number 35084).)